

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 706 OF 2025**

- | | | |
|----|--------------------------------|---|
| 1. | Sandip Dinkar Patil |] |
| | Age: 47 years, Occu: Service |] |
| 2. | Vaishnavi Sandip Patil |] |
| | Age: 20 years, Occu: Education |] |
| 3. | Atharv Sandip Patil |] |
| | Age: 16 years, Occu: Education |] |

Respondent No.3 minor hence by and through	]
Natural guardian i.e. father	]
Sandip Dinkar Patil	]
Appellant Nos.1 to 3 are Residing at Quarter	]
No.5, Bharti Vidyapith Educational Complex	]
Block No.A-4, Panchim Vihar, Panjabi Bag	]
Panchim – Delhi 110063	]
At present R/o. Nagthane	]
Tal: Palus, District: Sangli.	]

**Original
Claimants.**

.... Appellants

Versus

- | | | |
|----|--|---|
| 1. | Rajaram Arjun Koli |] |
| | Age: 50 years, Occu; Owner of dumper |] |
| | R/o. Shiye, Tal: Karveer, |] |
| | District: Kolhapur. |] |
| 2. | United India Insurance Company Limited |] |
| | At post, Samrat, Menson, Wakharbhag, |] |
| | Near Dena Bank, Sangli. |] |
| 3. | Appasaheb manohar Natikar |] |
| | Age: 39 years, Occu: Driver |] |
| | R/o. Timber Market Area, Sangli Tal: Miraj |] |
| | District: Sangli. |] |

**.... Respondents
Original
Respondents**

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SHANKARSA
DHUDUM
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Mr. Sarthak Diwan a/w Mr. Aditya Ghadge, Advocate for the Appellant.

Mr. Sandeep Jinsiwale, Advocate for the Respondent No.2 – Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th NOVEMBER, 2025.

ORAL JUDGMENT. :

1. This appeal is preferred by the Appellants – Claimants against the dismissal of claim petition passed by the Motor Accident Claims Tribunal, Sangli (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellants – Claimants that the Claimant No.1 was proceeding on motorcycle along with his deceased wife. At the relevant time, their motorcycle was dashed by the offending dumper. The offence was registered against the driver of offending dumper, but the Tribunal has dismissed the claim petition on the ground that the accident occurred due to negligence of the Claimant No.1. Learned counsel further submitted that the deceased was working as a Clerk and earning Rs.10,000/- per month, but these facts are not considered by the

Tribunal and has dismissed the claim petition, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.2 – Insurance Company that the accident occurred due to sole negligence of the Claimant No.1, as he went on wrong side of the road and gave dash to the offending dumper. Learned counsel further submitted that the spot panchanama produced on record, shows the negligence of the Claimant No.1. No evidence is produced on record to prove the income of the deceased. The Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsel, perused impugned judgment and order passed by the Tribunal.

5. It is Claimants' case that on 10th June, 2019, the deceased Ashwini was travelling as a pillion rider on motorcycle, which was driven by the Claimant No.1. While they were proceeding on the road, at the relevant time, the offending dumper came from backside in high and excessive speed in rash and negligent manner and gave dash to the motorcycle from the backside. Due to dash, the deceased fell down and wheels of the dumper ran over on her head. She died on

the spot. After accident, the dumper driver fled away from the accident spot. The offence was registered against the driver of dumper.

6. To prove the negligence of driver of dumper, the Claimant No.1 has examined himself. He has stated that the accident occurred due to negligence of the driver of dumper. In cross-examination, he has admitted that at the spot of accident, there was curve.

7. While dealing with the issue of negligence, the Tribunal has observed that the spot panchanama at Exhibit – 24, shows that the front portion of the motorcycle was severely damaged, indicating that the motorcycle was in high speed. The Tribunal further observed that the accident took place at the extreme eastern side of the road, and on that basis concluded that the dumper driver must have taken the dumper to the extreme eastern of the road to avoid the accident, but the motorcycle driver went to the extreme wrong side and collided with the dumper. On that ground, the Tribunal has dismissed the claim petition.

8. I am unable to understand the observations of the Tribunal. Negligence cannot be determined merely on assumptions. Admittedly, an offence was registered against the driver of the dumper, he fled

from the incident spot after the accident. Moreover, he did not step into witness box to prove the negligence of Claimant No.1, but these facts are not considered by the Tribunal. Considering evidence on record, I am considering 80% negligence of dumper driver and 20% negligence of the Claimant No.1 as accident occurred on curve road.

9. It is claimant's case that the deceased was working as clerk and was getting Rs.10,000/- per month as a salary, but to prove it, no evidence is produced on record. At the time of accident, the deceased was 37 years old, hence, I am considering her notional monthly income at Rs.7,000/- per month. The Claimants are entitled for 40% future prospects. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each Claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for loss of estate and Rs.18,000/- for funeral expenses.

10. Considering above calculations, the Claimants are entitled for following compensation.

Monthly income	Rs.7,000/-
Annual income (Rs.7,000/- X 12)	Rs.84,000/-
Multiplier X 15 (Rs.84,000/- X 15)	Rs.12,60,000/-
Add: 40% Future prospects	Rs.5,04,000/-
Total income	Rs.17,64,000/-

Less 1/3rd deduction for personal expenses	Rs.5,88,000/-
Total	Rs.11,76,000/-
Loss of estate	Rs.18,000/-
Funeral expenses	Rs.18,000/-
Consortium amount Rs.48,000/- X 3 (Claimants)	Rs.1,44,000/-
Total	Rs.13,56,000/-
Less 20% negligence	Rs.2,71,200/-
Total compensation	Rs.10,84,000/-

11. In view of above, I pass following:

ORDER

- i. The appeal is allowed.
- ii. The Claimants are entitled to the compensation amount of Rs.10,84,000/- @ 7.5% interest from the date of filing claim petition, till realization of the amount.
- iii. The Respondent No.2 – Insurance Company shall deposit the compensation amount along with accrued interest thereon, within six weeks after receipt of this order.
- iv. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

- v. The Claimants shall pay the deficit Court fees on compensation amount, if any, as per Rules.
 - vi. Record and proceedings be sent back to the Tribunal
12. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)